




National Textile University

NTU/PUR-OFF/191101/157/21- 2195
July 29, 2021

NOTIFICATION

It is notified for the information of all the concerned that the Competent Authority has been pleased to approve the attached **Blacklisting Policy** under Rule No. 19 of Public Procurement Rules, 2004 on the recommendation of the concerned committee to provide a criteria for Blacklisting the suppliers and contractors doing business with the National Textile University (NTU), Faisalabad to eliminate unfair practices.

2. All concerned may note for information and compliance, please.


Salman Saif
Registrar

Distribution:-

1. Rector Office
2. Registrar's Circulation file
3. Convener Purchase Committee (CPC)
4. All Deans/Directors/HODs/Incharges
5. Finance Office
6. University Auditor
7. Purchase Officer
8. Office Copy.

**NATIONAL TEXTILE UNIVERSITY
FAISALABAD**

BLACKLISTING POLICY

In pursuance of Rule-19 of Public Procurement Rules, 2004, the criteria for Blacklisting of Suppliers and Contractors doing business with the National Textile University, Faisalabad (and its Campus) is framed hereinafter to eliminate unfair practices.

2. SCOPE

- (i) This Policy shall govern the blacklisting of manufacturers, suppliers, distributors, contractors and consultants involved in procurement of goods, works and services with the National Textile University, Faisalabad (and its Campus) for offenses or violations committed during competitive bidding and contract implementation. The blacklisted firm/individual shall not be allowed to participate in the bidding process during the period of disqualification unless delisted.
- (ii) The blacklisting of the erring Contractor(s) and Supplier(s) is not meant as a retributive action but it is a reformative measure, taken in the interest of free, fair and open competition.

3. DEFINITION OF TERMS

- (a) **"Appellate Authority"** - The Rector, NTU is the Appellant Authority to appeal against issuance of Blacklisting Order from "The Committee".
- (b) **"Appeal"** - Right of firm/individual to lodge protest against the issuance of Blacklisting Order.
- (c) **"Procuring Agency"** - National Textile University (NTU), Faisalabad.
- (d) **"Blacklisting Order"** - An administrative penalty disqualifying a firm/individual from participating in procurement for a given period.
- (e) **"Suspension"** - An administrative penalty imposed for infractions committed during the competitive bidding stage, whereby such firms/individuals are prohibited from further participation in the bidding process of NTU, Faisalabad for a given period.
- (f) **"Contract Implementation"** - A process of undertaking a project or contract

in accordance with the contract documents.

- (g) **"Termination of Contract"** - Extinction of contract by reason of resolution or rescission under applicable rules/regulations/laws/this policy arising from the default of the firms/individuals.
- (h) **"Delist"** - Removal of supplier/contractor from blacklisting.

4. GROUND FOR BLACKLISTING

4(i) The following shall comprise the broad multilateral guidelines for blacklisting:

- (a) **"Corrupt Practice"** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
- (b) **"Fraudulent Practice"** means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
- (c) **"Collusive Practice"** means a scheme or arrangement between two or more bidders, with or without the knowledge of the NTU concerned Officer, designed to establish bid price at artificial, non-competitive levels, and
- (d) **"Coercive Practice"** means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract.

4(ii) In addition to above, blacklisting of firms/individuals may be resorted to when the charges are of serious nature, which include but are not limited to the following:

(a) **Competitive Bidding Stage**

During the competitive bidding stage, the NTU, Faisalabad shall impose on bidders or prospective bidders the penalty of suspension from participating in the public bidding process, as provided by applicable laws, for violations committed which include but are not limited to the following:

- i. Submission of eligibility requirements containing false information or falsified documents.
- ii. Submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding.

- iii. Submission of unauthorised or fake documents for pre-qualification/ tendering i.e. without specific authorisation from the principals/ manufacturers etc.
- iv. Failure of the firm to provide authentic Warranty Certificate and Proforma Invoice of the manufacturers.
- v. Failure of the firm to submit specific authority letter of the Original Equipment Manufacturer (OEM) for participation in a particular tender;
- vi. Unauthorized use of one's name, or using the name of another person for purpose of public bidding.
- vii. Deviations from specifications and terms & conditions of the purchase order/work order.
- viii. Withdrawal of a bid, or refusal to accept an award, or enter into contract with the NTU without justifiable cause, after he had been adjudged as having submitted the lowest calculated responsive bid.
- ix. Refusal or failure to submit the required performance security within the prescribed time.
- x. Refusal to clarify or validate in writing its Bid during post qualification within a period of seven (7) working days, or as may be specifically prescribed, from receipt of the request for clarification.
- xi. Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.
- xii. Any attempt to give illegal gratification to any representative of the NTU concerned Officer to influence the process of procurement.

In addition to the penalty of suspension, the bid security posted by the concerned bidder or prospective bidder could also be forfeited.

(b) Contract Implementation Stage

During the contract implementation stage, the NTU, Faisalabad shall impose on contractors after the termination of the contract the penalty of suspension from participating in the public bidding process, as provided by applicable laws, for violations committed which include but are not limited to the following:

- i. Failure of the contractor, due solely to his fault or negligence, to mobilize and start work or performance within the specified period in the Notice to Proceed.
- ii. Failure by the contractor to fully and faithfully comply with

its contractual obligations without valid cause, or failure by the contractor to comply with any written lawful instruction of the NTU, Faisalabad or its representative(s) pursuant to the implementation of the contract. For the procurement of infrastructure projects or consultancy contracts, lawful instructions include but are not limited to the following:

- a. Employment of competent technical personnel, competent engineers and/or work supervisors;
 - b. Provision of warning signs and barricades in accordance with approved plans and specifications and contract provisions;
 - c. Stockpiling in proper places of all materials and removal from the project site of waste and excess materials, including broken pavement and excavated debris in accordance with approved plans and specifications and contract provisions;
 - d. Deployment of committed equipment, facilities, support staff and manpower; and
 - e. Renewal of the effectivity dates of the performance security after its expiration during the course of contract implementation.
- iii. Assignment and subcontracting of the contract or any part thereof or substitution of key personnel named in the proposal without prior written approval by the NTU, Faisalabad.
- iv. For the procurement of goods, unsatisfactory progress in the delivery of the goods by the manufacturer, supplier or distributor arising from his fault or negligence and/or unsatisfactory or inferior quality of goods, as may be provided in the contract.
- v. For the procurement of consulting services, poor performance by the consultant of his services arising from his fault or negligence, any of the following acts by the consultant shall be construed as poor performance:
- a. Defective design resulting in substantial corrective works in design and/or construction;
 - b. Failure to deliver critical outputs due to consultant's fault or negligence;
 - c. Specifying materials which are inappropriate, substandard or way above acceptable standards;
 - d. Allowing defective workmanship or works by the contractor being supervised by the consultant; and
 - e. Submitting CV's of key personnel in the prequalifying

263

process or bid documents of professionals that are not in actual employment of the bidder.

- vi. For the procurement of infrastructure projects, poor performance by the contractor or unsatisfactory quality and/or progress of works arising from his fault or negligence.
- vii. Willful or deliberate abandonment or non-performance of the project or contract by the contractor resulting to substantial breach thereof.

In addition to the penalty of suspension/blacklisting, the performance security submitted by the contractor should also be forfeited.

(c) In addition to above, other grounds for blacklisting of firms/individuals include but are not limited to the following:

- i. Obtaining fraudulent payments;
- ii. Obtaining contracts by misleading the NTU concerned Officer;
- iii. Refusal to pay Government taxes/dues etc.;
- iv. Failure to fulfill contractual obligations;
- v. Changes in the status of firm's ownership/partnership etc., causing dissolution of the firm which existed at the time of inspection prior to original registration of the firm;
- vi. Registration of a firm with a new name by the Proprietor or family or a nominee thereof of a firm that has been already blacklisted;
- vii. Consequential operational damages caused to National Textile University, Faisalabad equipment or infrastructure as a result of equipment or parts thereof supplied on trial basis or due to failure of such equipment;
- viii. Contractors who have negotiated Plea Bargain under the National Accountability Ordinance 1999, or contractors involved with any other criminal proceedings conducted by any investigation agency where default has been proved specifically in relation to supplies made to or contracts concluded with National Textile University, Faisalabad or a subsidiary thereof;
- ix. Involved in litigation or needless petitioning to influence or obstruct the procurement process either on his own behalf or at the behest of any other vested interest;

- x. A firm may be disqualified for a period extendable to two years in case a decision by a court is awarded against the said firm after litigation, or where the firm is involved in litigation at least three times during two financial years, or where a firm has on account of litigation caused substantial financial losses to National Textile University, Faisalabad;
- xi. Blacklisted by other Federal and Provincial Government Ministries/Divisions/Departments and organisations/autonomous bodies subordinate thereto; and
- xii. Blacklisting in case of Joint Venture firms will also result in termination of the concerned Joint Ventures Partner.

5. COMMITTEE FOR BLACKLISTING OF THE CONTRACTORS/ SUPPLIERS/ CONSULTANTS (THE COMMITTEE)

A committee comprising of following officers shall be constituted, and will be hereinafter referred to as "The Committee":

- | | |
|---|----------|
| (i) Dean/Director School of Arts & Design | Convener |
| (ii) Dean/Director School of Engineering & Technology | Member |
| (iii) Director ORIC | Member |

Note: The Convener of "The Committee" may also invite an expert regarding the matter at hand to seek his expert opinion in the interest of the justice and fair play.

6. SUSPENSION AND BLACKLISTING PROCEDURE

(a) *Initiation of Action*

Any bidder/prospective bidder or duly authorized observer may initiate the Suspension and Blacklisting proceedings by filing a written complaint with the Purchase Committee/Technical Committee/Works Committee of National Textile University, Faisalabad. The Purchase Committee/Technical Committee/Works Committee of National Textile University, Faisalabad may also *motu proprio* commence the proceedings upon *prima facie* determination that the bidder or prospective bidder has committed any of the grounds for blacklisting during the competitive bidding stage.

(b) *Reference*

The Purchase Committee/Technical Committee/Works Committee refer the case to "The Committee" for further process of suspension and blacklisting.

(c) **Notification**

Upon verification of the existence of grounds for blacklisting, "The Committee" of NTU shall immediately Notify the firm/individual concerned in writing, advising him that:

- a. a complaint for suspension and blacklisting has been filed against him, or he has been considered by the Purchase Committee/Technical Committee/Works Committee of National Textile University, Faisalabad for suspension and blacklisting, stating the grounds for such;
- b. he has the opportunity to show cause why he should not be suspended and blacklisted;
- c. a hearing shall be conducted before "The Committee", upon his request, where he may present documentary evidence, verbal testimony and cross-examine the witnesses presented against him; and
- d. the consequences of being Suspended and Blacklisted.

Within Seven (07) working days from receipt of notification, the contractor shall submit its written answer with documentary evidence to the "The Committee" with a manifestation for request of hearing to determine questions of fact, if he so desires. No time extension shall be allowed.

Should the contractor fail to answer within the same period, "The Committee" shall blacklist the contractor/supplier from participating in any bidding process of NTU and forfeit his bid security/securities (if any).

(d) **Hearings**

If a Hearing is requested, "The Committee" shall immediately set the date and time for hearing. The hearing shall be non-litigious and shall be completed within Seven (07) working days.

If no request is made, "The Committee" shall make a determination of the case based on the complaint's answer, documentary evidence submitted and facts verified. If "The Committee" is convinced that the contractor is at fault, it shall blacklist the contractor/supplier from participating in any bidding process and forfeit his bid security, if any.

(e) **Decision**

The Decision shall clearly and distinctly state the facts, evidence and the law on which it is based, as well as the date of effectivity of the penalty, if any.

In case a contractor commits more than one offense or a

combination of offenses for the same project/contract in NTU, he shall be penalized for each violation separately.

(f) Notice of Decision

"The Committee" shall furnish the suspended contractor a copy of the decision immediately from its promulgation.

(g) Effect of Decision

A firm/individual is suspended upon receipt of the Notice of Decision prohibiting him from participating in the bidding process of the NTU. The suspension shall remain effective during the period of Appeal and shall terminate only upon a reversal of the decision by the Appellate Authority (Rector).

(h) Appeal

An Appeal may be filed by the suspended/blacklisted firm/individual with the Appellate Authority (Rector) within Ten (10) working days from receipt of the decision of "The Committee".

(i) Finality of Decision


The decision of "The Committee" shall become final and executory after the lapse of Ten (10) working days from the receipt of the Notice of Decision. If an Appeal is filed, the affirmed, modified or reversed decision shall become final and executory upon receipt thereof by "The Committee" and firm/individual concerned.

Upon finality of the decision suspending/blacklisting the contractor/supplier, the Registrar, NTU shall issue a Blacklisting Order disqualifying the erring firm/individual from participating in all bidding process of the NTU, Faisalabad for a given period. The Registrar shall also arrange for uploading the blacklisting order on NTU website as well as on PPRA website.

(j) Termination of Contract

Upon termination of contract due to default of the contractor, the erring contractor shall be blacklisted and prohibited from participating in all bidding process of the NTU for a given period. The performance security of said contractor shall also be forfeited.

7. STATUS OF BLACKLISTED FIRM/ INDIVIDUAL



Blacklisting of a firm/individual will not affect other ongoing contracts/works/supply orders. However, such blacklisted firm shall stand barred from all future tender processes/participation and Standing Security, if any, could be confiscated until recovery of financial damages ascertained by the NTU while issuing Blacklisting Order.

8. DELISTING

A blacklisted firm/individual shall be automatically Delisted after the period for the penalty has elapsed.

9. AMENDMENTS

In the implementation of Blacklisting Policy, the modifications may be introduced thereto through the amendment of its specific provisions as the need arises.

10. EFFECTIVITY

The Blacklisting Policy shall be implemented with effect from 1st July, 2021. It shall also be effective on all procurements in process under Public Procurement Rules, 2004.

This issues with the approval of Rector, NTU, Faisalabad.



Director Finance
Member



Dean QEC
Convener



University Auditor
Member